

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL LUIS COTA,
Appellant,
vs.
WILLIAM A. GITTERE, WARDEN,
NEVADA DEPARTMENT OF
CORRECTIONS,
Respondent.

No. 83773-COA

FILED

APR 11 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

MICHAEL LUIS COTA,
Appellant,
vs.
WILLIAM A. GITTERE, WARDEN,
NEVADA DEPARTMENT OF
CORRECTIONS,
Respondent.

No. 83841-COA

ORDER OF AFFIRMANCE

Michael Luis Cota appeals from orders of the district court dismissing postconviction petitions for a writ of habeas corpus filed on August 9, 2021, in district court case numbers 18-CR-00084 (Docket No. 83773) and 18-CR-00116 (Docket No. 83841). These cases were consolidated on appeal. *See* NRAP 3(b). Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge.

Cota filed his petitions more than one year after issuance of the remittitur on direct appeal on April 17, 2020. *See Cota v. State*, Nos. 77414-COA, 77415-COA, 2020 WL 1492818 (Nev. Ct. App. Mar. 19, 2020) (Order of Affirmance). Thus, Cota's petitions were untimely filed. *See* NRS 34.726(1). Cota's petitions were procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

On appeal, Cota claims the district court erred by dismissing his petitions without first allowing him to respond to the State's answers and returns. Certificates of service contained in the records on appeal indicate the State served Cota via mail on September 15, 2021. The district court order was filed on October 19, 2021, well after the 15 days Cota had to reply. See NRS 34.750(4). Cota thus fails to demonstrate the district court erred by dismissing his petitions.

Cota also argues on appeal that the State's answers and returns were not mailed to him until the day after the district court entered its orders dismissing Cota's petitions. He claims he was untimely because counsel refused to send him his case files. Even assuming the State's certificates of service contained an error, Cota's argument would not have demonstrated good cause to overcome the procedural time bar. See *Hood v. State*, 111 Nev. 335, 338, 890 P.2d 797, 798 (1995) ("Counsel's failure to send appellant his files did not prevent appellant from filing a timely petition, and thus did not constitute good cause for appellant's procedural default."). Accordingly, we conclude Cota is not entitled to relief, and we

ORDER the judgments of the district court AFFIRMED.¹


_____, J.
Tao


_____, J.
Bulla

¹The Honorable Michael Gibbons did not participate in the decision in this matter.

We have reviewed all documents Cota has filed in this matter, and we conclude no relief based upon those submissions is warranted.

cc: Hon. Thomas W. Gregory, District Judge
Michael Luis Cota
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk